

Notice of Allowability

Application No.

09/931,367

Examiner

Lisa Hashem

Applicant(s)

SCHILL ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed on 4-4-07.
2. ☒ The allowed claim(s) is/are 26-29,31-36,38-47,49,51-56,58-62,67-70 and 72.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. Claims 26-29, 31-36, 38-49, 51-56, 58-62, 67-70, and 72 are allowed.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with Todd Baker (Reg. 45,265) on 7-20-2007. Applicant's representative, Todd Baker, agreed to the following changes without prejudice:

In claim 68, lines 21-22,

the phrase "during the remainder of the time" has been changed to

--after said activating step--.

In claim 69, lines 19-20,

the phrase "before activation during the remainder of the time" has been changed to

--after said activating step--.

In claim 70, lines 21-22,

the phrase "during the remainder of the time" has been changed to

--after said activating step--.

In claim 72, line 34,

the phrase "during the remainder of the time" has been changed to

--after said activating step--.

Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance:

upon close review of the claims, the prior art, and applicant's remarks it appears that the allowance of claims 26-29, 31-36, 38-49, 51-56, 58-62, 67-70, and 72 are appropriate.

The prior art of U.S. Patent No. 5,579,537 by Takahisa provides additional services (e.g. advertising, music) included within a main service (e.g. music selection) provided by a service provider (Fig. 1, 100; Fig. 9; broadcast transmitting system) over a common service channel or main broadcast channel by means of a uni-directional transmission from the service provider to a receiving system (Fig. 2) (col. 3, lines 37-55; col. 4, line 53 – col. 5, line 10; col. 5, lines 22-45; col. 16, line 61 – col. 17, line 23). Wherein additional services are extracted from said common service channel by said receiving system, accessing said at least one additional service utilizing a user interface, and storing said extracted information (Fig. 2, 205) in said receiving system (col. 6, lines 15-54). The broadcast transmitting system provides additional services while the main service is being provided rather than further providing information regarding the additional services to the receiving device during time intervals in which the additional services are updated.

Therefore, Takahisa does not meet the requirements of the claimed invention, which requires:

returning said receiving device to a pre-activation state or deactivated state during the remainder of the time in order for the receiving device to be activated less and save more energy and

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the steps of activating and returning are performed on the basis of said store service information or said latest service information extracted from said common service channel, as cited in claims 68, 69, 70, and 72.

Takahisa discloses providing information on additional services during a main service. Takahisa does not provide further information regarding the additional services to the receiving device during time intervals when the additional services are updated.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

7. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Or call:

(571) 272-2600 (for customer service assistance)

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (571) 272-7542. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lh
July 20, 2007

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER 2600

